



Office of the Mayor and Council
City of College Park
8400 Baltimore Avenue, Suite 375
College Park, Maryland 20740
Telephone: (240) 487-3501

**NOTICE OF FINAL DECISION
of the
MAYOR AND COUNCIL
of the
CITY OF COLLEGE PARK**

RE: Case No. CEO-2021-01 Name: Jason & Devika Yizar

Address: 4714 Howard Lane, College Park, MD 20740

Enclosed herewith is a copy of the Resolution setting forth the action taken by the Mayor and Council of the City of College Park in this case on the following date:

June 15, 2021.

CERTIFICATE OF SERVICE

This is to certify that on June 17, 2021 attached Resolution was mailed, postage prepaid, to all persons of record.

NOTICE

Any person of record may appeal the Mayor and Council decision within thirty (30) days to the Circuit Court of Prince George's County, 14735 Main Street, Upper Marlboro, MD 20772. Contact the Circuit Court for information on the appeal process at (301) 952-3655.

Janeen S. Miller, CMC
City Clerk

Copies to: Advisory Planning Commission
City Attorney
Applicant
Parties of Record

PG Co. DER, Permits & Review Section
M-NCPPC, Development Review Division
City Public Services Department

***RESOLUTION OF THE MAYOR AND COUNCIL OF THE CITY OF COLLEGE PARK
ADOPTING THE RECOMMENDATION OF THE ADVISORY PLANNING
COMMISSION REGARDING VARIANCE APPLICATION NUMBER CEO-2021-01,
4714 HOWARD LANE, COLLEGE PARK, MARYLAND, RECOMMENDING
APPROVAL OF A VARIANCE FROM CITY CODE §87-23 C TO PERMIT THE
CONSTRUCTION OF A 4-FOOT-HIGH FRONT YARD FENCE.***

- WHEREAS,** the City, in accordance with §25-303 of the Land Use Article, Annotated Code of Maryland, has adopted §87-23, “Fences”, of the City Code, and established certain restrictions on the construction and reconstruction of fences on residential properties, including a height restriction on front yard fences; and
- WHEREAS,** pursuant to §15-19 of the Code of the City of College Park (“City Code”), the Advisory Planning Commission (“APC”) is authorized to hear appeals of the provisions of Chapter 87, Building Construction, of the City Code; and
- WHEREAS,** the City is authorized by §87-23 J to grant a variance where by reason of an extraordinary situation or condition, the strict application of the Fence Ordinance would result in peculiar and unusual practical difficulty to or an exceptional or undue hardship upon the owner of the property; and a variance can be granted without substantial impairment of the intent, purpose and integrity of the Fence Ordinance; and where, if applicable, the variance is consistent with the Design Guidelines adopted for the locally designated Historic District, and the fence for which a variance is requested incorporates openness as much as is practicable, provided that the fence shall not be constructed of chain link unless the material is consistent with the surrounding neighborhood; and
- WHEREAS,** on April 6, 2021, Jason and Devika Yizar (“Applicants”), submitted an application for a 1-foot front yard fence height variance from the provisions of §87-23 C of the City Code, for the property located at 4714 Howard Lane, College Park, Maryland (“Property”); and
- WHEREAS,** on May 6, 2021, the APC conducted a hearing on the merits of the variance, at which time the APC heard testimony and accepted evidence, including the staff report, exhibits, and the staff presentation with respect to whether the subject application meets the standards for granting an appeal set forth in §87-23 J of the City Code.
- WHEREAS,** based upon the evidence and testimony presented, the APC voted 4-0-0 to recommend that the variance be approved; and
- WHEREAS,** the Mayor and Council are authorized by §97-19 of the City Code to accept, deny or modify the recommendation of the APC, or to return the variance application to the Commission to take further testimony or reconsider its recommendation with respect to the variance request, and have reviewed the recommendation of the APC as to the application for a variance, and in particular have reviewed the APC’s findings of fact and conclusions of law; and

WHEREAS, no exceptions have been filed.

NOW THEREFORE, the Mayor and Council are in agreement with and hereby adopt the findings of fact and conclusions of law of the APC with regard to CEO-2021-01 for a 1-foot fence height variance to allow a 4-foot-high wrought iron fence in the front yard.

Section 1 Findings of Fact

- 1.1 The property is a rectangular, corner lot, 60-feet wide by 92.50-feet deep.
- 1.2 The property contains 5,550 square feet and is improved with a 2-story frame house and a detached garage.
- 1.3 The house fronts Howard Lane but driveway access to the detached garage is from Dartmouth Avenue. A basketball hoop is installed on the driveway.
- 1.4 The property is in the Old Town College Park Historic District.
- 1.5 There is much pedestrian traffic due to the neighborhood's proximity to the Metro Station and University of Maryland.
- 1.6 The City Fence Ordinance was first enacted in 2005, and amended in 2017, to allow fences in the front yard up to 3 feet in height. All yards which border a street are considered front yards.
- 1.7 The Applicants state that a 3-foot-high fence would not be tall enough to adequately protect their property from the repeated trespassing they have experienced, nor would it be sufficient to contain the dog they plan to acquire. Problems are also created when their son uses the basketball hoop because basketballs that roll into the street could create a safety hazard.
- 1.8 The proposed 4-foot-high wrought iron fence will incorporate openness as much as is practicable and is an acceptable material according to the Historic District Guidelines.
- 1.9 If a variance is granted, a Historic Area Work Permit (HAWP) will need to be obtained prior to obtaining a City Building Permit. A fence permit is not required from the County for fences 4-feet in height or less.

Section 2 Conclusions of Law

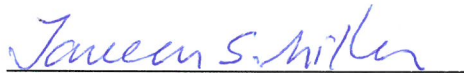
- 2.1 This property has an extraordinary situation in that its proximity to the Metro Station causes frequent trespassing on the property which is used as a cut-through; a 4-foot fence would help alleviate that condition.
- 2.2 Denial of the variance will result in an undue hardship to the owner by preventing adequate protection of the property from trespassers, and result in a practical difficulty to contain basketballs from entering the street and to adequately constrain a dog.
- 2.3 The proposed 4-foot high, decorative, wrought iron fence is compatible with the character of the neighborhood.

- 2.4 The property is in a Historic District and the fence was designed to comply with the Historic District Design Guidelines.
- 2.5 A wrought iron fence incorporates openness as much as is practical.

NOW, THEREFORE, BE IT RESOLVED, by the Mayor and Council of the City of College Park to approve CEO-2021-01 for a 1-foot fence height variance, to allow a 4-foot-high wrought iron fence along part of the Dartmouth Avenue frontage subject to the issuance of a Historic Area Work Permit (HAWP).

ADOPTED, by the Mayor and Council of the City of College Park at a regular meeting on the 15th day of June 2021.

CITY OF COLLEGE PARK



Janeen S. Miller, CMC
City Clerk



Patrick L. Wojahn, Mayor

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY



Suellen M. Ferguson
City Attorney